IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 90 of 2000

CRA.321/1998 of V ADDL.SESSIONS COURT, ERNAKULAM
CC.711/1998 of JUDL.MAGISTRATE OF FIRST CLASS-I, MUVATTUPUZHA

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REVN. PETITIONER:

BABY , S/O JOSEPH,
PARAPPILLIYIL VEEDU
KALAMPOOR KARA
ENANELLOOR VILLAGE

BY ADV. SRI.T.P.VARGHESE

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 29/11/2007, THE COURT ON 29/11/2007 PASSED THE FOLLOWING:

A.K.BASHEER, J.

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Crl.Rev.Pet. 90 of 2000

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ORDER

29TH NOVEMBER 2007

A.K.BASHEER, J.

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Crl.R.P.No.90 OF 2000

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Dated this the 29th day of November 2007

ORDER

Petitioner, who has been concurrently found guilty under Section 379 IPC by the trial court and appellate court, has preferred this Revision petition challenging the impugned order of conviction and sentence.

2. The prosecution case was that petitioner had committed theft of a sum of Rs.500/- kept in a cover from the pocket of PW1 while he was getting down from a bus at Moovattupuzha Post office junction at about 10 a.m. on July 17, 1998. Though the petitioner had managed to get out of the bus after committing theft, PW1 had chased and caught him red handed. Petitioner was taken to the police station by PW1 himself and he had lodged Ext.P1 complaint before PW7, Sub Inspector of Police. The money contained in the cover was recovered from the petitioner by PW7. The trial court, after considering the oral and documentary evidence adduced by the prosecution, found the petitioner guilty under Section

379 IPC and convicted and sentenced him to undergo rigorous imprisonment for one year. Set off was allowed for the period during which the petitioner was in custody. In appeal, the order of conviction was confirmed. However, the sentence was reduced to six months' rigorous imprisonment. Petitioner has challenged the order of the appellate court in this revision petition.

3. PW1 had narrated the incident before the court when he was examined. He had categorically stated that petitioner was chased and caught red handed with the cover containing the money in his hand. Though the petitioner had tried to escape from the scene of incident by handing over the money, PW1 had refused to accept the same and he had taken the petitioner/accused to the police station. Ext.P1 was registered by PW7, Sub Inspector of Police at the Police Station and the money was also recovered. PW6 was a witness to the seizure mahazar. He had admittedly put his signature in Ext.P2. But he stated that he did not see the actual seizure. PW2 to 5 who were cited as eye witnesses did

not support the prosecution. But PW7 had corroborated the version given by PW1.

4. Though learned counsel has contended that the version given by PW1 in Ext.P1, F.I.statement was at variance with the depositions given by him before the court on several material aspects, I am unable to agree with the above contention. It is true, PW1 had stated that the accused had picked his pocket from the right side. Later, in his cross examination he had stated that it was from his left side. Similarly, learned counsel has also raised a contention that the evidence of PW7 may not be of any help to the prosecution, since he had stated that the cover in which the cash was found had contained the name and address of PW1, though the case of PW1 was that the cover contained only his name. These minor and insignificant contradictions, even if they may be termed so, may not have any bearing on the prosecution case at all. PW1 had, in unambiguous terms stated that his pocket was picked from the bus and that it was the petitioner/accused who was responsible for that. He had

also stated that he had chased the petitioner and caught him red handed. Thereafter, the petitioner was taken to the police station. This version has not been in any way contradicted or discredited. Therefore, I do not find any reason to disbelieve the version given by PW1 which was supported by the evidence of PW7 on all material aspects.

I have carefully gone through the depositions of the witnesses and also perused the other documents on record. The trial court as well as the appellate court had examined the oral and documentary evidence meticulously. I do not find any material illegality or irregularity in the findings entered by the courts below. No interference is warranted with the concurrent findings entered by the two courts. There is no merit in the revision petition. It is accordingly dismissed.

(A.K.BASHEER, JUDGE)

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